

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

RECEIVED

UNITED STATES OF AMERICA,)
) 2007 SEP 10 P 4:49
 PLAINTIFF,)
) DEBRA P. HACKETT, CLK
 v.) CIVIL DISTRICT COURT
) MIDDLE DISTRICT ALA.
 ONE REMINGTON RIFLE, MODEL)
 7400, 30-06 CALIBER, BEARING)
 SERIAL NUMBER 8084 and)
 ONE MARLIN RIFLE, MODEL 120,)
 .22 CALIBER, BEARING SERIAL)
 NUMBER 27367587,)
)
 DEFENDANTS.)

3:07CV813-mht

VERIFIED COMPLAINT FOR FORFEITURE IN REM

The United States of America ("United States"), by and through Leura G. Canary, United States Attorney, Middle District of Alabama, and John T. Harmon, Assistant United States Attorney, in a civil cause of forfeiture in rem respectfully alleges as follows:

NATURE OF THE ACTION

1. This is an action to forfeit and condemn to the use and benefit of the United States the following Defendant property ("Defendant property"):

- a) Remington Rifle, Model 7400, 30-06 caliber, bearing serial number 8084; and,
- b) Marlin Rifle, Model 120, .22-caliber, bearing serial number 27367587.

JURISDICTION AND VENUE

2. Plaintiff brings this action in rem in its own right to forfeit and condemn the Defendant property pursuant to Title 18, United States Code, Section 924(d)(1). This Court has jurisdiction

over this action under Title 28, United States Code, Section 1345 and 1355.

3. Venue is proper in this district pursuant to Title 28, United States Code, Section 1355 and 1395 because the acts or omissions giving rise to the forfeiture occurred in this district.

THE DEFENDANTS IN REM

4. The Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), has requested the institution of this civil forfeiture proceeding against the following Defendant property:

- a. Remington Rifle, Model 7400, 30-06 caliber, bearing serial number 8084; and,
- b. Marlin Rifle, Model 120, .22-caliber, bearing serial number 27367587.

5. ATF commenced an administrative forfeiture proceeding against the Defendant property. Rex A. May, Sr. ("May") filed a claim therein. As a result of May's claim, the United States is required to file this civil forfeiture action.

6. The Defendant property is subject to forfeiture to the United States under Title 18, United States Code, Section 924(d)(1).

FACTS

7. The Defendant property was seized during execution of a search warrant at the residence of Linwood Johnson. Methamphetamine and drug paraphernalia were also seized. Prior to this seizure at least two controlled purchases of methamphetamine were made from

the residence. Patricia Shafer ("Shafer") was present during the search. She stated that the Defendant property belonged to either her or her dad, that it had been at the residence for one year and that she regularly smoked methamphetamine.

8. Shafer had dominion and control over the residence from which the Defendant property was seized, had access to the entire residence and had possession of the Defendant property.

9. Shafer is prohibited from possession of firearms and ammunition by reason of her violation of Title 18, United States Code, Section 922(d)(3). Shafer's actual or constructive possession of the Defendant property makes the Defendant property subject to forfeiture pursuant to Title 18, United States Code, Section 924(d)(1).

10. Further, the Defendant property is subject to forfeiture because May aided and abetted Shafer's possession in violation of Title 18, United States Code, Section 2 and 922(g)(3).

11. The Defendant property traveled in interstate commerce.

CLAIM FOR RELIEF

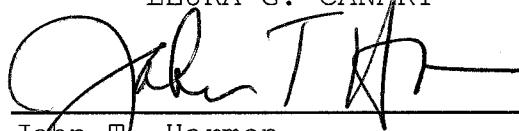
12. The United States repeats and realleges each and every allegation set forth in Paragraphs 1 through 11 above.

WHEREFORE, the United States that the Court issue a warrant and summons for the arrest and seizure of the Defendant property; that notice of this action be given to all persons known or thought to have an interest in or right against the Defendant property;

that the Defendant property be forfeited and condemned to the United States; that the United States be awarded its costs and disbursements in this action; and, that the Court award the United States such other and further relief as this Court deems proper and just.

Respectfully submitted this the 10th day of September, 2007.

FOR THE UNITED STATES ATTORNEY
LEURA G. CANARY



John T. Harmon
Assistant United States Attorney
Office of the United States Attorney
Middle District of Alabama
131 Clayton Street
Post Office Box 197
Montgomery, Alabama 36101-0197
Telephone: (334) 223-7280
Facsimile: (334) 223-7560
E-mail: John.Harmon@usdoj.gov
Bar Number: 7068-II58J

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)

VERIFICATION

I, Dwight Brown, declare under penalty of perjury that I am a Special Agent with the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, that I have read the foregoing Verified Complaint and know the contents thereof, and that the matters contained in the Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief and as to those matters I believe them to be true.

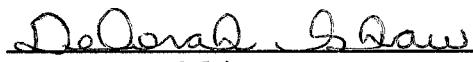
The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct on this 10th day of September, 2007.



Dwight Brown, Special Agent
United States Bureau of Alcohol,
Tobacco, Firearms and Explosives

Sworn to and subscribed before me this the 10th day of September, 2007.



Notary Public
Commission Expires: 9.23.09

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FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA,)
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PLAINTIFF,)
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v.) CIVIL ACTION NO.
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ONE REMINGTON RIFLE, MODEL)
7400, 30-06 CALIBER, BEARING)
SERIAL NUMBER 8084 and)
ONE MARLIN RIFLE, MODEL 120,)
.22 CALIBER, BEARING SERIAL)
NUMBER 27367587,)
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DEFENDANTS.)

3:07CV813 - mht

NOTICE OF ARREST AND SEIZURE

Notice is hereby given that the United States of America has filed a Complaint for Forfeiture In Rem and the Court has issued Warrant of Arrest In Rem for the forfeiture of the Defendant property, which was seized during execution of a search warrant at the residence of Linwood Johnson on February 2, 2007, in Wedowee, Alabama. The Defendant property being more particularly described as:

- a) Remington Rifle, Model 7400, 30-06 caliber, bearing serial number 8084; and,
- b) Marlin Rifle, Model 120, .22-caliber, bearing serial number 27367587.

Any person claiming an interest in the Defendant property must file a claim asserting that interest, in the manner set forth in 18 U.S.C. § 983(a)(4)(A) and Supplemental Rule G(5), such claim must be filed not later than 30 days after the date of service of the Complaint or, as applicable, not later than 30 days after the

date of final publication of notice of the filing of the Complaint or as otherwise specified by Supplemental Rule G(5). In addition, any person having filed such a claim shall also file an Answer to the Complaint not later than 20 days after the filing of the claim, and shall serve and file the Claim and Answer to the Verified Complaint with the Office of the Clerk, United States District Court for the Middle District of Alabama, One Church Street, Montgomery, Alabama 36104, with a copy thereof sent to:

John T. Harmon
Assistant United States Attorney
Office of the United States Attorney
Middle District of Alabama
131 Clayton Street
Post Office Box 197
Montgomery, Alabama 36101-0197
Telephone: (334) 223-7280.

Additional procedures and regulations regarding this forfeiture action are found at 19 U.S.C. §§ 1602-1619, and 21 §§ 1316.71-1316.81.

All persons and entities who have an interest in the Defendant currency may, in addition to filing a claim or in lieu of the filing of a claim, submit a Petition for Remission or Mitigation of the forfeiture for a non-judicial determination of this action pursuant to 28 C.F.R. Part 9.

JESSE SEROYER, JR.
UNITED STATES MARSHAL
MIDDLE DISTRICT OF ALABAMA

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FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

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ONE REMINGTON RIFLE, MODEL)
7400, 30-06 CALIBER, BEARING)
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NUMBER 27367587,)
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DEFENDANTS.)

WARRANT FOR ARREST IN REM

TO THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES:

WHEREAS, a Verified Complaint of Forfeiture In Rem has been filed in the United States District Court for the Middle District of Alabama, alleging that the Defendant property is subject to seizure and forfeiture to the United States pursuant to 18 U.S.C. § 924(d)(1) for violation of 18 U.S.C. § 922(d)(3);

And, the Court being satisfied that, based on the Verified Complaint of Forfeiture In Rem, there is probable cause to believe that the Defendant property so described constitutes property involved in or traceable to such violations of 18 U.S.C. § 922(d)(3), and that grounds for application for issuance of a warrant for arrest in rem exist, pursuant to Supplemental Rule G of the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims;

YOU ARE, THEREFORE, HEREBY COMMANDED to arrest and seize said Defendant property, and use your discretion and whatever means appropriate to protect and maintain said Defendant property; and,

IT IS FURTHER ORDERED that you shall send any person who reasonably appears to be a potential claimant based upon the facts known to the United States, a copy of this Warrant and Verified Complaint In Rem in a manner consistent with the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims, Federal Rules of Civil Procedure; and,

IT IS FURTHER ORDERED that you publish notice to all persons of this action and the procedures to be followed for making a claim as described in this Warrant in a manner consistent with Supplemental Rule G(4) (a); and,

IT IS FURTHER ORDERED that a return of this Warrant shall be promptly made to the Court identifying the individuals upon whom copies were served and the manner employed; and,

IT IS FURTHER ORDERED that all persons claiming an interest in or right against the Defendant property shall file a claim asserting that interest, in the manner set forth in 18 U.S.C. § 983(a) (4) (A) and Supplemental Rule G(5), and such claim must be filed not later than 30 days after the date of service of the Complaint or, as applicable, not later than 30 days after the date of final publication of notice of the filing of the Complaint, and shall serve and file their answers to the Complaint within twenty (20) days after the filing of the claim with the Office of the

Clerk, United States District Court for the Middle District of Alabama, One Church Street, Montgomery, Alabama 36104, with a copy thereof sent to:

John T. Harmon
Assistant United States Attorney
Office of the United States Attorney
Middle District of Alabama
131 Clayton Street
Post Office Box 197
Montgomery, Alabama 36101-0197
Telephone: (334) 223-7280.

Done this the _____ day of _____, 2007.

UNITED STATES DISTRICT JUDGE